



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET

ATLANTA, GEORGIA 30303-8960

JUL 24 2017

Mr. Lance R. LeFleur
Director
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Dear Mr. LeFleur:

The United States Environmental Protection Agency has completed its review of the revisions to Alabama Department of Environmental Management (ADEM or Department) Administrative Code Chapters 335-6-10 Water Quality Criteria and 335-6-11 Water Use Classifications for Interstate and Intrastate Waters. After completion of the Department's public participation processes, ADEM's Environmental Management Commission approved the revisions in December 2016, and they became effective under State law on February 3, 2017. The revisions were certified by the Alabama Attorney General on March 16, 2017, as duly adopted pursuant to State law. The revisions were submitted to V. Anne Heard, Acting Regional Administrator, U.S. EPA Region 4, by letter dated April 3, 2017, and were received on April 20, 2017, for review pursuant to Section 303(c) of the Clean Water Act (CWA).

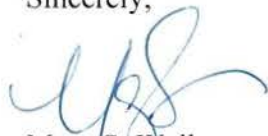
As outlined in the enclosed decision document, we are approving all new and revised water quality standards (WQS) as documented in Chapters 335-6-10 Water Quality Criteria and 335-6-11 Water Use Classifications for Interstate and Intrastate Waters as complying with the requirements of CWA Section 303 and 40 C.F.R. Part 131. The revisions are contained in Chapter 335-6-10 Sections 335-6-10-.02 Definitions, 335-6-10-.05 General Conditions Applicable to All Water Quality Criteria, 335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters, 335-6-10-.09 Specific Water Quality Criteria, and 335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes; and in Chapter 335-6-11 Sections 335-6-11-.01 The Use Classification System and 335-6-11-.02 Use Classifications. A detailed discussion of the submitted revisions adopted by the Department is outlined below and is also provided in Attachment A.

In addition to our review pursuant to Section 303(c) of the CWA, Section 7(a)(2) of the Endangered Species Act (ESA) requires federal agencies, in consultation with the U.S. Fish and Wildlife Service (FWS), to ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species. The EPA Region 4 transmitted the Biological Evaluation (BE) to the Daphne, Alabama FWS Field office in a letter dated May 9, 2017. The EPA received concurrence from this office in a letter dated May 30, 2017. A copy of the EPA's May 9, 2017, letter with the BE and FWS concurrence is enclosed.

We would like to commend you and your staff for your continued efforts to protect and enhance Alabama's waters during the Department's rulemaking. We appreciate your efforts throughout this

WQS development process. If you have questions regarding this action, please contact me at 404-562-9469 or have a member of your staff contact Ms. Lydia Mayo at 404-562-9247.

Sincerely,



Mary S. Walker

Director

Water Protection Division

Enclosure

cc: Chris Johnson, ADEM

**Decision Document of the U.S. Environmental Protection Agency
Review of Revisions to Alabama Department of Environmental Management
Administrative Code Chapters 335-6-10 and 335-6-11
Under Section 303(c) of the Clean Water Act**

This document summarizes the U.S. Environmental Protection Agency's review of the revisions to Alabama Water Quality Standards (WQS) Chapters 335-6-10 Water Quality Criteria and 335-6-11 Water Use Classifications for Interstate and Intrastate Waters adopted by Alabama Department of Environmental Management (ADEM or Department). The revisions were adopted as a result of ADEM's review of WQS as required by Section 303(c) of the Clean Water Act (CWA). ADEM held its triennial review public hearing on July 16, 2015, for its proposed revisions and held the public hearing for the finalized revisions on November 10, 2016. The rule amendments were certified effective for State purposes on March 16, 2017. On April 20, 2017, the EPA received a letter from the Alabama Department of Environmental Management to V. Anne Heard, Acting Regional Administrator, U.S. EPA Region 4, certifying that the amendments were duly adopted pursuant to State law and were being submitted to the EPA for review, pursuant to Section 303(c) of the CWA. The revisions adopted by the Department are referenced below and the complete revised wording for all substantive revisions is included in Attachment A. A complete copy of the revised rules is contained in ADEM's April 20, 2017 submittal.

The EPA's Decision

The revisions to ADEM's Administrative Code rules in Chapters 335-6-10 Alabama Water Quality Criteria and 335-6-11 Water Use Classifications as outlined in the table below are hereby approved as complying with the requirements of CWA Section 303 and 40 C.F.R. Part 131. Additional detail and explanations on the revisions are provided below and also in Attachment A.

Administrative Code Rule	Description of Revision
Chapter 335-6-10 Water Quality Criteria	
335-6-10-.02 Definitions (1)	Addition of definition
335-6-10-.05 General Conditions Applicable to All Water Quality Criteria (5) <u>Note:</u> This revision is reiterated in 335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (c) and (e) Specific criteria 7. Bacteria (ii), 335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (c) and (e) Specific criteria 7. Bacteria (iii), and 335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c) and (e) Specific criteria 7. Bacteria (ii). (See below.)	Revised recreational season
335-6-10-.07-Toxic Pollutant Criteria Applicable to State Waters (1)(b)	Coastal waters of the Escatawpa River Basin
335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (c) <u>Note:</u> This revision is reiterated in 335-6-10-.09 Specific Water Quality Criteria (4) Shellfish	Other usage clarification (year-round)

Administrative Code Rule	Description of Revision
Harvesting (c) and 335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c) (See below.)	
335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (c) and (e) Specific criteria 7. Bacteria (ii) <u>Note:</u> This revision is reiterated in 335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (c) and (e) Specific criteria 7. Bacteria (iii), and 335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c) and (e) Specific criteria 7. Bacteria (ii). (See below.)	Other usage clarification (whole body)
335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (c) and (e) Specific criteria 7. Bacteria (ii)	Revised recreational season (See above.)
335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (e) Specific criteria: 7. Bacteria (ii) <u>Note:</u> This revision is reiterated in 335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (e) Specific criteria: 7. Bacteria (ii) (See below.)	Revised bacteria criterion
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (b) <u>Note:</u> This revision is reiterated in 335-6-10-.09(4) Shellfish Harvesting (e) Specific criteria 7. Bacteria (i)	National Shellfish Sanitation Program publication update
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (b)	Shellfish Harvesting use clarification
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (c)	Other usage clarification (year-round) (See above.)
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (c) and (e) Specific criteria 7 Bacteria (iii)	Revised recreational season (See above.)
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (c) and (e) Specific criteria 7 Bacteria (iii)	Other usage clarification (whole body) (See above.)
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (e) Specific criteria: 7. Bacteria: (ii)	Addition of criteria for Shellfish Harvesting Use
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (e) Specific criteria: 7. Bacteria: (iii)	Deletion of freshwater criteria
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (a)	Fish and Wildlife Use Clarification
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c)	Other usage clarification (year-round) (See above.)
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c) and (e) Specific criteria 7. Bacteria (ii)	Revised recreational season (See above.)

Administrative Code Rule	Description of Revision
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (c) and (e) Specific criteria 7. Bacteria (ii)	Other usage clarification (whole body) (See above.)
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (e) Specific criteria: 7. Bacteria (ii)	Revised bacteria criterion (See above.)
335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes (2)(d) The Chattahoochee River Basin 3.(i)	Revised West Point Lake chlorophyll <i>a</i> criteria
Chapter 335-6-11 Use Classifications for Surface Waters	
335-6-11-.01 The Use Classification System (4)	Addition of the Escatawpa River Basin
335-6-11-.02 Use Classifications (10) The Escatawpa River Basin	Addition of the term coastal waters
335-6-11-.02 Use Classifications (10) The Escatawpa River Basin <u>Note:</u> This revision is reiterated in 335-6-11-.02 Use Classifications (11) The Mobile River-Mobile Bay Basin and (12) The Perdido River Basin (See below.)	Identification of specific waterbody segments as coastal and non-coastal waters
335-6-11-.02 Use Classifications (11) The Mobile River-Mobile Bay Basin	Identification of specific waterbody segments as coastal and non-coastal waters (see above)
335-6-11-.02 Use Classifications (12) The Perdido River Basin	Identification of specific waterbody segments as coastal and non-coastal waters (see above)
335-6-11-.02 Use Classifications (14) The Tennessee River Basin	Revised use classification for Swan Creek

Chapter 335-6-10 Water Quality Criteria¹

Addition of Definition

335-6-10-.02(1)

The Department added the definition of coastal waters at 335-6-10-.02(1) in order to provide further explanation where a coastal water exists in Alabama. This definition is consistent with the National Oceanic and Atmospheric Administration State coastal zone boundary for Alabama. This definition does not change existing waterbody uses or water quality criteria for the protection of any existing designated waterbody use. The Department's rules currently include references to coastal and non-coastal waters and contain marine and freshwater aquatic life criteria in Table 1 in Chapter 335-6-10 Water Quality Criteria on pages 10-45 through 10-50. The Department's webpage entitled *Maps of Alabama's Surface Water Classifications*² illustrates the location of coastal waters within the three coastal river basins.

According to the CWA and EPA's implementing regulations, the State must adopt water quality criteria that protect the designated and existing uses. In accordance with the goals of the CWA at Section 101(a)(2) and 40 C.F.R. Section 131.11, the State has included the coastal waters definition. The

¹ Please refer to Attachment A for the revised rule language.

² Maps of Alabama's Surface Water Classifications are found at <http://www.adem.state.al.us/programs/water/wquseclass.cnt>.

definition for coastal waters provides more precise identification of coastal waters in 335-6-11-.02 Use Classifications. The revised definition of coastal waters within the Department's WQS is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Revised Recreational Season

335-6-10-.05(5)

This revision is also reiterated in the Public Water Supply, Shellfish Harvesting and Fish and Wildlife use classifications as outlined in 335-6-10-.09(2)(c) and (e)7.(ii), 335-6-10-.09(4)(c) and (e)7.(iii) and 335-6-10-.09(5)(c) and (e)7.(ii).

The Department revised the recreational use season in and on the waters to include the months of May through October. This revision provides E. coli and enterococci bacterial water quality criteria for the additional months of May and October, in addition to the months of June, July, August and September. The Department has determined that based on consideration of stakeholder input and recreational data, this revision will provide protection for recreational users during the months of May through October.

In accordance with the EPA's implementing regulations at 40 C.F.R. Section 131.10 and CWA Sections 101(a) and 303(c), the State must adopt criteria to protect designated and existing uses, including seasonal recreation. With this change, the State is providing additional water quality protection for recreational uses. The revised recreational period is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Coastal Waters of the Escatawpa River Basin

335-6-10-.07(1)(b)

The Department revised this rule to include the Escatawpa River Basin to the list of coastal waters to which marine aquatic life criteria apply. The reference to marine aquatic life criteria currently includes the reference to coastal waters of the Mobile and Perdido River Basins and was updated to include the coastal waters of the Escatawpa River Basin.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.10 and 131.11, the State must adopt water quality criteria that protect the designated and existing uses. The EPA has determined that by including a reference to the Escatawpa River, the Department has provided a clearer and more accurate identification of coastal waters. The clarification of coastal waters in this WQS is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA. Therefore, the EPA is approving the revisions.

Other Usage Clarification

335-6-10-.09(2)(c)

335-6-10-.09(4)(c)

335-6-10-.09(5)(c)

For the designated uses of Public Water Supply, Shellfish Harvesting and Fish and Wildlife, this change adds language to clarify that incidental water contact occurs year-round. Although it is generally

understood that incidental recreation can occur when exposure occurs to waters designated for Public Water Supply, Shellfish Harvesting and Fish and Wildlife Uses, this change provides additional clarity that protection exists year-round.

In accordance with the goals of the CWA and 40 C.F.R. Part 131, the State is providing clarification regarding recreational uses. The revised descriptions of recreational use timeframes are consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Other Usage Clarification

335-6-10-.09(2)(c) and (e)7.(ii)

335-6-10-.09(4)(c) and (e)7.(iii)

335-6-10-.09(5)(c) and (e)7.(ii)

This change adds the language “whole body” in the specific criteria rules identified above to clarify that whole body water-contact recreation may occur in the months of May through October. This revision is also recognized and protected for by the Public Water Supply, Shellfish Harvesting and Fish and Wildlife use designations. The Swimming and Other Whole Body Water-Contact Sports use designation provides whole body water-contact recreation protection at all times. It is generally understood that recreational protection exists during May through October for waters designated for Public Water Supply, Shellfish Harvesting and Fish and Wildlife Uses. This change provides additional clarity that whole body recreational protection exists May through October for Public Water Supply, Shellfish Harvesting and Fish and Wildlife Use waters.

In accordance with the goals of the CWA and 40 C.F.R. Part 131, the State is providing clarification regarding criteria to protect recreational uses. The revised descriptions of recreational use timeframes are consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Revised Bacteria Criterion

335-6-10-.09(2)(e)7.(ii)

This revision is also reiterated in 335-6-10-.09(5)(e)7.(ii)

The Department revised the E. coli criterion in order to correct an error in the Department’s rules caused by an error in EPA guidance for bacteria criteria. The guidance was entitled EPA Implementation Guidance for Ambient Water Quality Criteria for Bacteria May 2002 Draft. This revision provides the correct single sample maximum of 298 colonies/100 ml for E. coli criteria and provides additional protections for the Public Water Supply and Fish and Wildlife use.

In accordance with CWA Sections 101(a) and 303(c) and the EPA’s implementing regulations at 40 C.F.R. Part 131, the State must adopt and protect uses, including criteria to protect the uses. By revising the E. coli criteria, the State is protecting water quality that provides for recreation. The revised E. coli criteria are consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

National Shellfish Sanitation Program publication update

335-6-10-.09(4)(b)

This revision is also reiterated in 335-6-10-.09(4)(e)7.(i).

The Department updated the reference to National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 Revision, to National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2015 Revision. This revision is made in order to be consistent with the date of the latest published NSSP Guide for the Control of Molluscan Shellfish. This revision applicable to Shellfish Harvesting waters is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Shellfish Harvesting Use Clarification

335-6-10-.09(4)(b)

The revision for the Shellfish Harvesting use classification added clarifying language that only coastal waters may be considered for classification as Shellfish Harvesting use.

In addition to the revised reference above in 335-6-10-.09(4)(b), the Department rules at 335-6-11-.01 The Use Classification System (4) and 335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters (1)(b) also identify that shellfish harvesting is only applicable in coastal areas where marine criteria apply.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.10 and 131.11 and CWA Sections 101(a) and 303(c), the State must adopt and protect uses, including criteria to protect those uses. In accordance with the goals of the CWA and 40 C.F.R. Part 131, by revising this language, the State is further clarifying in this rule that only coastal waters can be classified for Shellfish Harvesting. The added reference that only coastal waters may be considered for classification of Shellfish Harvesting use is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Addition of Criteria for Shellfish Harvesting Use

335-6-10-.09(4)(e)7.(ii)

The Department added the shall not exceed maximum criterion for enterococci to provide consistency with the criteria for the Fish and Wildlife use because all Shellfish Harvesting waters are classified for Fish and Wildlife use and include the enterococci value of shall not exceed a maximum of 275 colonies/100 ml in any sample. The current enterococci criteria at 335-6-10-.09 (4) Shellfish Harvesting (e) 7. (iii) for Shellfish Waters remains the same.

In accordance with the EPA's implementing regulations at 40 C.F.R. Section 131.10 and CWA Sections 101(a) and 303(c), the State must adopt and protect uses, including criteria to protect those uses. In accordance with the goals of the CWA and 40 C.F.R. 131, the State is providing water quality that

protects the shellfish harvesting use. The revised enterococci criterion is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Deletion of Freshwater Criteria

335-6-10-.09(4)(e)7(iii)

The reference to *E. coli* criteria in coastal waters in this rule was removed because the Shellfish Harvesting use applies in coastal waters and the *E. coli* criteria are not applicable in coastal waters.

In accordance with the EPA's implementing regulations at 40 C.F.R. Section 131.10 and CWA Sections 101(a) and 303(c), the State must adopt and protect uses, including criteria to protect those uses. In accordance with the goals of the CWA and 40 C.F.R. 131, the State is providing water quality criteria for enterococci and not *E. coli*. that protect the shellfish harvesting use. The revision to remove the *E. coli* criteria for coastal waters is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Fish and Wildlife Use Clarification

335-6-10-.09(5)(a)

The Department removed unclear language for the Fish and Wildlife use classification. This clarification specifies that the uses intended for protection by the Fish and Wildlife use classification include fishing, propagation of fish, aquatic life, and wildlife. Additional use designations that may be designated for waterbodies include Swimming and Other Whole Body Water-Contact Sports, Public Water Supply, Shellfish Harvesting, and Outstanding Alabama Water uses.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.10 and 131.11 and CWA Sections 101(a) and 303(c), the State must adopt and protect uses, including criteria to protect those uses. By revising this language, the State is clarifying the uses protected by the Fish and Wildlife use. This revision is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Revised West Point Lake Chlorophyll *a* Criteria

335-6-10-.11(d)3.(i)

The Department revised the chlorophyll *a* criteria for the Alabama portions of West Point Lake to be consistent with the criteria adopted by the Georgia Department of Environmental Protection of the Georgia Department of Natural Resources for West Point Lake. According to 335-6-10-.11 Water Quality Standards to Specific Lakes, the waterbody-specific chlorophyll *a* criteria is considered a lake nutrient target that is necessary to maintain and protect existing uses and "as additional water quality data and improved assessment tools become available", the revision of lake chlorophyll *a* criteria may be necessary. The revised lake chlorophyll *a* criteria are based upon more recent monitoring data and revised hydrodynamic and water quality models that support the revised chlorophyll *a* values. The criteria of 22 µg/l (revised from 27 µg/l) measured at the deepest point, main river channel, dam forebay is consistent with scientific data supporting this revision. The new criteria of 24 µg/l, as measured at the LaGrange water intake is also consistent with scientific data supporting this revision.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.6, 131.10, and 131.11 and CWA Sections 101(a) and 303(c), the State must adopt and protect designated and existing uses, including criteria that protect those uses. In accordance with the goals of the CWA and 40 C.F.R. Part 131, the revisions to the chlorophyll *a* criteria protect the uses of West Point Lake, including recreation, fishing and public water supply. This revision is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA, and therefore, the EPA is approving this revision.

Chapter 335-6-11 Use Classifications for Surface Waters³

Addition of the Escatawpa River Basin

335-6-11-.01(4)

The Department included a revision to 335-6-11-.01(4) to include a reference to the Escatawpa River Basin. The revision includes the Escatawpa River Basin as one of the coastal areas to which the Shellfish Harvesting use is applicable.

In accordance with the EPA's implementing regulations 40 C.F.R. Section 131.11, the State must adopt water quality criteria that protect the designated and existing uses. The EPA has determined that this revision provides a clarification of the protections and WQS for the waters of the Escatawpa River Basin designated as shellfish waters in coastal areas. This revision is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving the revision.

Addition of the Term Coastal Waters

335-6-11-.02(10)

In 335-6-11-.02 Use Classifications (10) The Escatawpa River Basin, the reference to interstate and intrastate waters is replaced with the reference to coastal waters. The Escatawpa River Basin is one of three basins, in addition to the Mobile and Perdido, that include coastal waters. The Mobile and Perdido Basins are identified as coastal waters, while the Escatawpa Basin waters were identified as interstate or intrastate waters and did not include the term coastal.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.10 and 131.11, the State must adopt water quality criteria that protect the designated and existing uses. Although the coastal waters are illustrated on the *Maps of Alabama's Surface Water Classifications* for the Escatawpa River Basin, the revision to include the coastal waters term for the Escatawpa River Basin clarifies that this basin includes coastal waters. This revision is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA, and therefore, the EPA is approving the revision.

Identification of Specific Waterbody Segments as Coastal and Non-Coastal Waters

In 335-6-11-.02 Use Classifications (10) The Escatawpa River Basin, the reference to interstate waters is replaced with a reference to coastal waters and the new coastal waters section now identifies the coastal waterbody segments that were previously identified as interstate waters. The new non-coastal waters section now identifies the non-coastal waterbody segment previously identified as an intrastate water.

³ Please refer to Attachment A for the revised rule language.

This revision provides additional clarification because not all coastal and non-coastal named stream segments are illustrated on the *Maps of Alabama's Surface Water Classifications* for the Escatawpa River Basin.

In 335-6-11-.02 Use Classifications (11) The Mobile River-Mobile Bay Basin, the reference to interstate and coastal waters is replaced with a reference to coastal waters and the new coastal waters section now identifies the named coastal waterbody segments that were previously identified as interstate/coastal waters and intrastate waters. The new non-coastal waters section now identifies the named non-coastal waterbody segments previously identified as interstate/coastal waters and intrastate waters. This revision provides additional clarification because not all the coastal and/or non-coastal named stream segments are illustrated on the *Maps of Alabama's Surface Water Classifications* for the Mobile River Basin.

In 335-6-11-.02 Use Classifications (12) The Perdido River Basin, the reference to interstate and coastal waters is replaced with a reference to coastal waters and the new coastal waters section now identifies the named coastal waterbody segments that were previously identified as interstate/coastal waters and intrastate waters. The added non-coastal section now identifies the named non-coastal waterbody segments previously identified as interstate/coastal waters and intrastate waters. This revision provides additional clarification because not all the coastal and/or non-coastal named stream segments are illustrated on the *Maps of Alabama's Surface Water Classifications* for the Perdido River Basin.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.10 and 131.11, the State must adopt water quality criteria that protect the designated and existing uses. The revisions to include references to coastal and non-coastal waters and exclude the reference to interstate and/or intrastate waters by the Department, provides clarification of the coastal and non-coastal waters within the Escatawpa, Mobile and Perdido River Basins. These revisions are consistent with 40 C.F.R. Part 131 and Section 303 of the CWA, and therefore, the EPA is approving the revisions.

Revised Use Classification for Swan Creek

335-6-11-.02(14)

The use classification of the waterbody segment of Swan Creek from Huntsville Brownsferry Road to Town Creek in the Tennessee River Basin is now revised from the Agriculture and Industrial (A&I) use to the higher Fish and Wildlife (F&W) use classification. The upgrade to F&W use classification for this segment of Swan Creek demonstrates that improvements in water quality are sufficient to meet the F&W use and is consistent with the CWA providing improved protections for fish and aquatic life and water quality. The criteria for F&W use can be found at 335-6-10-.09(5), and include best usage of waters, conditions related to best usage of waters and specific criteria for pollutants. The criteria for A&I use can be found at 335-6-10-.09(7), and include best usage of waters, conditions related to best usage of waters and specific criteria for pollutants. The upgrade to F&W results in more stringent WQS for temperature, dissolved oxygen, and bacteria and includes numeric aquatic life and human health criteria. The individual criteria for each use are referenced in the Alabama administrative codes cited above. The rules can also be found on the Department's website at <http://adem.alabama.gov/alEnviroRegLaws/files/Division6Vol1.pdf>.

A use analysis was conducted by the Department in accordance with 40 C.F.R. Part 131, and was based upon the scientific assessment of the physical, chemical, and biological factors of the stream, in addition to economic factors that may affect use attainment as described in 40 C.F.R. Section 131.10(g). Water

quality monitoring was conducted to determine trends and point and non-point sources were also analyzed and considered. The conclusion was made by the Department that water quality associated with the F&W use in the 2.77-mile segment of Swan Creek is being met and concluded that the Agriculture and Industrial (A&I) use classification is no longer appropriate for this stream segment. Therefore, through the Department's thorough analysis, the A&I use is being revised to the F&W use. In addition to providing improved water quality in the Swan Creek F&W segment being upgraded, the F&W use will lead to improvements in downstream water quality conditions and contribute to the support of the beneficial uses in the downstream portion of Swan Creek and the Tennessee River.

In accordance with the EPA's implementing regulations at 40 C.F.R. Sections 131.6, 131.10, and 131.11 and CWA Sections 101(a) and 303(c), the State must adopt and protect uses, including criteria to protect those uses. In accordance with the goals of the CWA and 40 C.F.R. Part 131, by revising the use designation and criteria for Swan Creek, the State is protecting water quality that provides for the best usage of waters including fishing, recreation and water supply use and is consistent with 40 C.F.R. Part 131 and Section 303 of the CWA and therefore, the EPA is approving this revision.

Non-Substantive Rule Revisions

The revisions outlined in the table below to ADEM's Administrative Code rules at 335-6-10 and 335-6-11 are hereby approved as complying with the requirements of CWA Section 303 and 40 C.F.R. Part 131. Additional detail and explanations on these revisions are provided in Attachment A. These types of revisions include grammatical or typographical corrections such as numbering and spelling, etc. and other updates that are intended to clarify or refine Alabama's WQS such as naming conventions in the Geographical Name Information System. These types of revisions are considered to be non-substantive changes. In other words, the changes and/or the revisions do not affect the substance or meaning of the affected provisions and do not constitute revisions to WQS as that term is used in Section 303(c) of the CWA or the EPA's regulations at 40 C.F.R. Part 131.

Although the EPA considers these changes to be non-substantive changes to existing WQS, it is reasonable to approve such revisions to ensure transparency and to establish that the revised regulations at Administrative Code 335-6-10 and 335-6-11 remain effective for CWA purposes. The EPA's action to approve non-substantive changes will not re-open the EPA's prior approvals of the underlying previously approved WQS.

Administrative Code Rule	Description of Non-Substantive Revision
Chapter 335-6-10 Water Quality Criteria	
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters (1), (1)(b) and (1)(g)	Correction of grammatical errors and clarification of existing language
335-6-10-.09 Specific Water Quality Criteria (2) Public Water Supply (d)	Correction of grammatical errors and clarification of existing language
335-6-10-.09 Specific Water Quality Criteria (3) Swimming and Other Whole Body Water-Contact Sports (b)	Correction of grammatical errors and clarification of existing language
335-6-10-.09 Specific Water Quality Criteria (4) Shellfish Harvesting (d)	Correction of grammatical errors and clarification of existing language

Administrative Code Rule	Description of Non-Substantive Revision
335-6-10-.09 Specific Water Quality Criteria (5) Fish and Wildlife (d)	Correction of grammatical errors and clarification of existing language
335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes	Update river basin names (Black Warrior, Escambia, Lower Tombigbee, Perdido/Escambia, Tombigbee, Yellow River, Warrior) and re-order
Chapter 335-6-11 Use Classifications for Surface Waters	
335-6-11 Use Classifications for Surface Waters	Use of interstate and intrastate removed and replaced with surface
335-6-11-.01 The Use Classification System	Correction of grammatical errors and clarification of existing language
335-6-11-.01 The Use Classification System (3)	Correction of grammatical errors and clarification of existing language Streams/waterbodies
335-6-11-.01 The Use Classification System (4)	Addition of Escatawpa, specify Perdido and not Perdido-Escambia
335-6-11-.01 The Use Classification System (5)	Correction of grammatical errors and clarification of existing language
335-6-11-.02 Use Classifications	Correction of grammatical errors and clarification of existing language (change stream to waterbody, remove reference to interstate and intrastate, use of 10 feet above MSL from coastal waters definition, update location names to correspond with the GNIS, update river basin names)

As explained above, the non-substantive revisions in Chapter 335-6-10 and 335-6-11 identified in the table above are approved as complying with the requirements of CWA Section 303 and 40 C.F.R. Part 131. Although considered non-substantive, it is reasonable to approve such revisions to ensure transparency and to establish that the revised regulations remain effective for CWA purposes.

The revisions identified in 335-6-10-.08 Waste Treatment Requirements (a) and 335-6-10-.12 Implementation of the Antidegradation Policy (3)(a) are not considered to be water quality standards revisions and therefore are not being acted upon in this decision document.

Endangered Species Act Requirements

Section 7(a)(2) of the Endangered Species Act requires that federal agencies, in consultation with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), ensure that their actions are not likely to jeopardize the continued existence of federally listed species or result in the destruction or adverse modification of designated critical habitat of such species. With regard to Alabama's WQS revisions, the EPA transmitted the Biological Evaluation to the Daphne FWS office in a letter dated May 9, 2017. The EPA received concurrence from this office in a letter dated May 30, 2017. A copy of the EPA's May 9, 2017, letter with the BE and FWS concurrence is enclosed.

Attachment A

The following summary of revisions displays added language in blue lettering and deleted language in red lettering strikeout. Substantive revisions are highlighted in gray.

REVISIONS TO ALABAMA DEPARTMENT OF ENVIRONMENTAL PROTECTION ADMINISTRATIVE CODE CHAPTERS 335-6-10 AND 335-6-11	
<u>335-6-10 WATER QUALITY CRITERIA</u>	
335-6-10-.02 Definitions	The Department proposes to add the definition of "Coastal Waters".
(1) "Coastal Waters" means those waters, adjacent to the shoreline, and lying seaward of the continuous 10-foot contour extending seaward to the outer limit of the United States territorial sea which contain a measureable quantity or percentage of sea water, including but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.	
	The definition of coastal waters serves to provide an explanation where a coastal waters exists in the state. This definition is consistent with the National Oceanic and Atmospheric Administration state coastal zone boundary for Alabama. The Department's webpage entitled <i>Maps of Alabama's Surface Water Classifications</i> illustrates the location of coastal waters within the three coastal river basins and specific coastal waters are identified in 335-6-11-.02 Use Classifications for the Escatawpa, Mobile and Perdido River Basins.
335-6-10-.02 Definitions	Renumbering of definitions.
335-6-10-.05 General Conditions Applicable to All Water Quality Criteria	
335-6-10-.05(5)	The Department proposes to extend the recreational use season from June through September to May through October.
(5) All waters, where attainable, shall be suitable for recreation in and on the waters during the months of June May through September October...	
	This revision applies recreational bacterial criteria in and on the waters during the months of May and October in addition to the months of June, July, August and September for all waters as outlined in 335-6-10-.05 General Conditions Applicable to All Water Quality Criteria.
Note: This revision is reiterated in the Public Water Supply, Shellfish Harvesting and Fish and Wildlife use classifications as outlined below: <u>335-6-10-.09 Specific Water Quality Criteria</u> (2) Public Water Supply (c) Other usage of waters: it is recognized that the waters may be used for... recreation during the months of June May through September October, ... (e) Specific criteria: 7. Bacteria (ii) For... recreation during the months of June May through September October, ... <u>335-6-10-.09 Specific Water Quality Criteria</u> (4) Shellfish Harvesting (c) Other usage of waters: it is recognized that the waters may be used for... recreation during the months of June May through September October, ... (e) Specific criteria: 7. Bacteria (iii) For... recreation during the months of June May through September October, ...	

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<p><u>335-6-10-.09 Specific Water Quality Criteria</u> (5) Fish and Wildlife (c) Other usage of waters: it is recognized that the waters may be used for... recreation during the months of June May through September October, ... (e) Specific criteria: 7. Bacteria (ii) For... recreation during the months of June May through September October, ...</p>	
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters	
335-6-10-.07(1)(b)	This change is proposed to remove the word "interstate" applied to the Escatawpa, Mobile, and Perdido River Basins.
(b) The marine aquatic life criteria apply only to interstate-and coastal waters of the Escatawpa River Basin, coastal waters of the Mobile River – Mobile Bay Basin, and interstate-and coastal waters of the Perdido River Basin, as identified in rule 335-6-11-.02 of the Department's regulations.	
	The Department considers the use of the term interstate or waters identified to cross state borders to be outdated.
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters	The reference to coastal waters of the Escatawpa River Basin has been added.
335-6-10-.07(1)(b)	
(b) The marine aquatic life criteria apply only to interstate-and coastal waters of the Escatawpa River Basin, coastal waters of the Mobile River – Mobile Bay Basin, and interstate-and coastal waters of the Perdido River Basin, as identified in rule 335-6-11-.02 of the Department's regulations.	
	The reference to marine aquatic life criteria currently includes the reference to coastal waters of the Mobile and Perdido River Basins and was updated to include the coastal waters of the Escatawpa River Basin.
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters	Other: remove space, correct punctuation etc.
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters	
335-6-10-.07(1)(g)	This change is proposed to replace "State" with "Alabama" for Department of Public Health
(g) Numeric criteria... by the Department in consultation with the State Alabama Department of Public Health...	
335-6-10-.09 Specific Water Quality Criteria	
335-6-10-.09(2) PUBLIC WATER SUPPLY	The Department proposes to add language to clarify that incidental water contact occurs year-round.
(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact year-round ...	
	This change adds language to clarify that incidental water contact occurs year-round and protection exists year-round. This revision is reiterated for the waterbody use designations of Public Water Supply, Shellfish Harvesting and Fish and Wildlife Uses.

REVISIONS TO ALABAMA DEPARTMENT OF ENVIRONMENTAL PROTECTION ADMINISTRATIVE CODE CHAPTERS 335-6-10 AND 335-6-11

Note: This revision is reiterated in the Shellfish Harvesting and Fish and Wildlife use classifications as outlined below:

335-6-10-.09 Specific Water Quality Criteria

(4) Shellfish Harvesting

(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact ~~year-round...~~

335-6-10-.09 Specific Water Quality Criteria

(5) Fish and Wildlife

(c) Other usage of waters: it is recognized that the waters may be used for incidental water contact ~~year-round...~~

335-6-10-.09 Specific Water Quality Criteria

The Department proposes to rename “outdoor swimming places” to “outdoor swimming areas”.

335-6-10-.09(2) PUBLIC WATER SUPPLY

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~ **areas** and will be considered satisfactory for swimming and other whole body water-contact sports.

Note: This revision is reiterated in the Swimming, Shellfish, Fish and Wildlife uses as outlined below:

335-6-10-.09(3) SWIMMING AND OTHER WHOLE BODY WATERCONTACT SPORTS

(b) Conditions related to best usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~ **areas** and will be considered satisfactory for swimming and other whole body water-contact sports.

335-6-10-.09(4) SHELLFISH HARVESTING

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~ **areas** and will be considered satisfactory for swimming and other whole body water-contact sports.

335-6-10-.09(5) FISH AND WILDLIFE

(d) Conditions related to other usage: the waters, under proper sanitary supervision by the controlling health authorities, will meet accepted standards of water quality for outdoor swimming ~~places~~ **areas** and will be considered satisfactory for swimming and other whole body water-contact sports.

335-6-10-.09(2) PUBLIC WATER SUPPLY

The Department proposes to add language to clarify that whole body water-contact recreation occurs during the months of May through October.

335-6-10-.09 Specific Water Quality Criteria

(2) Public Water Supply

(c) Other usage of waters: it is recognized that the waters may be used... ~~for whole body water-contact recreation during the months of June May through SeptemberOctober...~~

(e) Specific criteria: 7. Bacteria (ii) For... ~~whole body water-contact recreation during the months of June May through SeptemberOctober, ...~~

This change adds language to clarify that whole body water-contact occurs May through October and that protection would exist during these months.

Note: This revision is reiterated in the Shellfish Harvesting and Fish and Wildlife use classifications as outlined below:

335-6-10-.09 Specific Water Quality Criteria

(4) Shellfish Harvesting

(c) Other usage of waters: it is recognized that the waters may be used... ~~for whole body water-contact recreation during the months of June May through SeptemberOctober...~~

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<p>(e) Specific criteria: 7. Bacteria (iii) For... whole body water-contact recreation during the months of June May through SeptemberOctober, ...</p> <p><u>335-6-10-.09 Specific Water Quality Criteria</u></p> <p>(5) Fish and Wildlife</p> <p>(c) Other usage of waters: it is recognized that the waters may be used... for whole body water-contact recreation during the months of June May through SeptemberOctober...</p> <p>(e) Specific criteria: 7. Bacteria (iii) For... whole body water-contact recreation during the months of June May through SeptemberOctober, ...</p>	
335-6-10-.09(2) PUBLIC WATER SUPPLY	The Department proposes to correct the E. coli bacteria criteria from 487 colonies/100 ml to 298 colonies/100 ml due to an error.
<p>(e) 7. (ii) For incidental water contact and whole body water-contact recreation during the months of June May through SeptemberOctober, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean E. coli organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 487 298 colonies / 100 ml in any single sample in noncoastal waters.</p>	
<p>This revision is due to an error that was published in EPA bacterial criteria guidance (EPA Implementation Guidance for Ambient Water Quality Criteria for Bacteria May 2002 Draft). This revision is correcting the error.</p>	
<p><u>Note:</u> This revision is reiterated in 335-6-10-.09(5) Fish and Wildlife (e) 7. (ii) as outlined below.</p> <p><u>335-6-10-.09(5) FISH AND WILDLIFE</u> (e) 7. (ii) For incidental water contact and whole body water-contact recreation during the months of June May through SeptemberOctober, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean E. coli organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 487 298 colonies / 100 ml in any single sample in noncoastal waters.</p>	
335-6-10-.09(4) SHELLFISH HARVESTING	The Department proposes to update the reference to National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 Revision, to National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2015 Revision. This revision is made in order to be consistent with the date of the latest published NSSP Guide for the Control of Molluscan Shellfish.
<p><u>335-6-10-.09(4) SHELLFISH HARVESTING</u></p> <p>(b) Conditions related to best usage: waters will meet the sanitary and bacteriological standards included in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 2015 Revision, published by the Food and Drug Administration, U.S. Department of Health and Human Services and the requirements of the State Department of Public Health. The waters will also be of a quality suitable for the propagation of fish and other aquatic life, including shrimp and crabs. ...</p>	
<p><u>Note:</u> This revision is reiterated in 335-6-10-.09(4)(e) 7. (i) as outlined below.</p> <p><u>335-6-10-.09(4) SHELLFISH HARVESTING</u></p> <p>(e) 7. Bacteria: (i) Not to exceed the limits specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 2015 Revision, published by the Food and Drug Administration, U. S. Department of Health and Human Services.</p>	
335-6-10-.09(4) SHELLFISH HARVESTING	The Department proposes to add language to recognize that this use classification only applies to coastal waters.
<p>(b) Conditions related to best usage: waters... Only coastal waters may be considered for classification as Shellfish Harvesting.</p>	

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	This clarification is consistent with the fact that there are differing bacterial criteria for fresh and marine/coastal waters and is consistent with EPA guidance for fresh and marine waters. (Ambient Water Quality Criteria for Bacteria 1986 EPA 440584002)
335-6-10-.09(4) SHELLFISH HARVESTING	The Department proposes to add additional enterococci criteria applicable to coastal waters.
(e) 7. (ii) In coastal waters, bacteria of the enterococci group shall not exceed a maximum of 275 colonies/100 ml in any sample.	
	<p>The revision to add the shall not exceed enterococci criterion for Shellfish Harvesting waters is to be consistent with the enterococci criteria at 335-6-10-.09 (5) Fish and Wildlife (e) 7. (i). All Shellfish Harvesting waters are designated for the Fish and Wildlife use, therefore, this criterion is implied for Shellfish Waters.</p> <p>The geometric mean and single sample maximum enterococci criteria at currently in place at 335-6-10-.09 (4) SHELLFISH HARVESTING (e) 7. (iii) for Shellfish Waters remain the same.</p> <p>Note: The shall not exceed enterococci criterion (275 colonies/100ml) also applies to Public Water Supply and Limited Warmwater Fishery uses at 335-6-10-.09 (2) Public Water Supply (e) (7) (i), and 335-6-10-.09 (6) Limited Warmwater Fishery (e) (3).</p>
335-6-10-.09(4) SHELLFISH HARVESTING	The Department proposes to remove the E. coli criteria for this use classification.
(iii) For incidental water contact and whole body water-contact recreation during the months of June May through September October, the bacterial quality of water is acceptable when a sanitary survey by the controlling health authorities reveals no source of dangerous pollution and when the geometric mean E. coli organism density does not exceed 126 colonies/100 ml nor exceed a maximum of 235 colonies/100 ml in any sample in non-coastal waters. ...	
	This revision removes the E. coli bacteria criteria reference. The criterion does not apply to coastal waters in shellfish harvesting areas. This correction is consistent with EPA guidance for fresh and marine waters. (Ambient Water Quality Criteria for Bacteria 1986 EPA 440584002)
335-6-10-.09(5) FISH AND WILDLIFE	The Department proposes to remove the language “, and any other usage except for swimming and water contact sports or as a source of water supply for drinking or food processing purposes” to clarify the uses regarding this classification.
(a) Best usage of waters: fishing, propagation of fish, aquatic life, and wildlife, and any other usage except for swimming and water contact sports or as a source of water supply for drinking or food processing purposes.	
	This revision removes unclear language for this use. This clarification indicates the uses for Fish and Wildlife use do not include uses protected by other use classifications such as Swimming and Other Whole Body Water-contact Sports use or Public Water Supply use.
335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes	
335-6-10-.11(2)	The Department proposes to update the river basin names and reorder the basins in alphabetical order.

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	<p>The Lower Tombigbee River Basin and The Upper Tombigbee River Basin will be combined into The Tombigbee River Basin; The Perdido/Escambia River Basin will be split into The Escambia River Basin and The Yellow River Basin; and The Warrior River Basin will be renamed to The Black Warrior River Basin.</p> <p>Additional detail: The Warrior River Basin (k) was changed to the Black Warrior River Basin and was moved from (k) to (b). The Perdido/Escambia River Basin (g) was removed and revised to the Escambia River Basin (f) and the Yellow River Basin (j). Lake Jackson and Lake Frank Jackson were moved from the Perdido/Escambia River Basin (g) to The Yellow River Basin (j) a new named sub-basin of the Perdido/Escambia River Basin. Point A and Gant Lakes were moved from the Perdido/Escambia River Basin (g) to the Escambia River Basin (f) a new named sub-basin of the Perdido/Escambia River Basin. The Lower Tombigbee River Basin (f) was moved to the Upper Tombigbee River Basin (j) and the Upper Tombigbee River Basin (j) was revised to the Tombigbee River Basin.</p>
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335-6-10-.11(2)(c) The Chattahoochee River Basin	The Department proposes to update the West Point chlorophyll <i>a</i> criteria to correspond with Georgia's updated criteria.
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Water Quality Criteria Applicable to Specific Lakes (2)(ed) The Chattahoochee River Basin 3. (i) Chlorophyll *a* (corrected, as described in Standard Methods for the Examination of Water and Wastewater, 20th Edition, 1998): the mean of photic-zone composite chlorophyll *a* samples collected monthly April through October shall not exceed ~~27~~ 22 µg/l, as measured at the ~~LaGrange, Georgia Water Intake~~ deepest point, main river channel, dam forebay; or 24 µg/l, as measured at the LaGrange Water Intake.

	<p>The revision to update the chlorophyll <i>a</i> criteria for the Alabama portions of West Point Lake to be consistent with the criteria adopted by the Georgia Department of Environmental Protection of the Georgia Department of Natural Resources (GAEPD) for West Point Lake is based on more recent monitoring data and revised hydrodynamic and water quality models that support the lower chlorophyll <i>a</i> value. The criteria of 22 µg/l (revised from 27 µg/l) measured at the deepest point, main river channel, dam forebay is consistent with scientific data supporting this revision. The additional 24 µg/l, as measured at the LaGrange water intake is consistent with scientific data supporting this revision. The revised values will continue to support existing uses and protect the water quality of those uses. Additional information regarding the scientific information of this revision can be found in the EPA's approval letter to the GAEPD dated May 1, 2015.</p>
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Chapter 335-6-11 USE CLASSIFICATIONS FOR SURFACE WATERS

335-6-11 WATER USE CLASSIFICATIONS FOR INTERSTATE AND INTRASTATE WATERS	This change is proposed to update the chapter title from "WATER USE CLASSIFICATIONS FOR INTERSTATE AND INTRASTATE WATERS" to "USE CLASSIFICATIONS FOR SURFACE WATERS".
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CHAPTER 335-6-11 ~~WATER~~ USE CLASSIFICATIONS FOR ~~INTERSTATE AND INTRASTATE~~ SURFACE WATERS

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	This revision replaces the use of the interstate and intrastate waters term and replaces it with the "Surface Waters" term. The Department considers the use of the interstate and intrastate terms to be outdated.
335-6-11-.01 The Use Classification System	
335-6-11-.01(3)	This change is proposed to rename "streams" to "waterbodies" to be consistent with the renaming of the header in 335-6-11-.02 from "Stream" to "Waterbody".
(3) Those use classifications presently included in the standards... certain streams waterbodies in the State	
335-6-11-.01(4)	This change is proposed to add Escatawpa River Basin.
(4) Although it is not explicitly stated in the classifications, it should be understood that the use classification of "Shellfish Harvesting" is only applicable in the coastal area and, therefore, is included only in the Mobile River Basin, Escatawpa River Basin ,	
	The reference to marine aquatic life criteria currently includes the reference to coastal waters of the Mobile and Perdido River Basins and was updated to include the coastal waters of the Escatawpa River Basin.
335-6-11-.01(4)	This change is proposed to revise the Perdido-Escambia River Basin to Perdido River Basin to reflect the updated river basin names.
(4) Although it is not explicitly stated in the classifications, it should be understood that the use classification of "Shellfish Harvesting" is only applicable in the coastal area and, therefore, is included only in the... Perdido- Eseambia River Basin. ...	
335-6-11-.01(5)	This change is proposed to rename "stream" to "waterbody" to be consistent with the renaming of the header in 335-6-11-.02 from "Stream" to "Waterbody".
(5) Not all waters are included by name in the use classifications since it would be a tremendous administrative burden to list all stream waterbody segments in the State. In addition, in virtually every instance where a segment is not included by name, the Department has no information or stream waterbody data upon which to base a decision relative to the assignment of a particular classification. An effort has been made, however, to include all major stream waterbody segments and all segments which that , to the Department's knowledge, are currently recipients of point source discharges. Those segments which are not included by name will be considered to be acceptable for a "Fish and Wildlife" classification unless it can be demonstrated that such a generalization is inappropriate in specific instances.	
	The revision from the use of "which" to "that" is proposed to correct grammar.
335-6-11-.02 Use Classifications	This change is proposed to rename the header from "Stream" to "Waterbody" to include other bodies of water in addition to streams.
(1)-(15) Stream Waterbody	
335-6-11-.02 Use Classifications	This change is proposed to remove the INTERSTATE WATERS and INTRASTATE WATERS headings, as it is antiquated and no longer necessary.
	Additional detail: The deletion of interstate and intrastate waters applies to the Alabama, Chattahoochee, Chipola, Choctawhatchee, Coosa, Escatawpa, Tombigbee/Upper Tombigbee, Mobile, Perdido, Yellow, Escambia (Conecuh), Tallapoosa, and Tennessee River Basins.

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	<p><u>Note:</u> The Escatawpa, Mobile and Perdido River Basins identify coastal and non-coastal water segments and are discussed in further detail below.</p> <p>Deletion of interstate waters applies to the Blackwater River Basin.</p> <p>Deletion of intrastate applies to the Black Warrior and Cahaba River Basins.</p>
335-6-11-.02 Use Classifications	This change is proposed to arrange the updated river basin names in alphabetical order.
	This revision revises the river basin list from (1) The Alabama River Basin through (15) The Tombigbee River Basin.
<p><u>Note:</u> Due to the volume of revisions in the following rules, please reference the complete copy of the revised rules contained in ADEM's April 20, 2017 submittal.</p>	
335-6-11-.02(1) THE ALABAMA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove unnamed tributary segments with a classification of "F&W" due to it reiterating the current rule stating that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02 (42) THE CAHABA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(35) THE CHATTAHOOCHEE RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System). This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
335-6-11-.02(46) THE CHIPOLA RIVER BASIN	This change is proposed to correct a "From" location to correspond with the GNIS (Geographical Name Information System).

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335-6-11-.02(57) THE CHOCTAWHATCHEE RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(68) THE COOSA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove unnamed tributary segments with a classification of “F&W” due to it reiterating the current rule stating that segments not included by name are considered to be acceptable for a “Fish and Wildlife” classification unless demonstrated otherwise.
335-6-11-.02(7) THE ESCATAWPA RIVER BASIN	The addition of the coastal waters heading removes the “Interstate Waters” and “Intrastate Waters” headings.
(710) THE ESCATAWPA RIVER BASIN INTERSTATE WATERS COASTAL WATERS	
	This change identifies five coastal waterbody segments previously identified as interstate waters. This revision provides additional clarification because the coastal areas but not the specific coastal stream segments are illustrated on the <i>Maps of Alabama's Surface Water Classifications</i> for the Escatawpa River Basin. http://www.adem.state.al.us/programs/water/watermaps/Escatawpa-swc.pdf
(710) THE ESCATAWPA RIVER BASIN NON-COASTAL WATERS	
	This change identifies five non-coastal waterbody segments. This change includes four waterbody segments previously identified as interstate waters and one waterbody segment that was previously identified as an intrastate water.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to relocate several waterbodies from the Mobile River Basin to their correct location within The Escatawpa River Basin.

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	This change is proposed to add a note regarding shellfish harvesting waters within The Escatawpa River Basin.
	The note regarding shellfish harvesting waters accompanies all coastal waters in ADEM rules, therefore, the correction to include identification of coastal waters in the Escatawpa Basin also includes the addition of the note for coastal waters.
335-6-11-.02(815) THE LOWER TOMBIGBEE RIVER BASIN	This change is proposed to combine THE LOWER TOMBIGBEE RIVER BASIN and THE UPPER TOMBIGBEE RIVER BASIN to form THE TOMBIGBEE RIVER BASIN
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(9) THE MOBILE RIVER-MOBILE BAY BASIN	This change is proposed to add the COASTAL WATERS and NON-COASTAL WATERS headings to distinguish coastal and non-coastal waters.
(911) THE MOBILE RIVER-MOBILE BAY BASIN INTERSTATE AND COASTAL WATERS	
	This change identifies 44 coastal waterbody segments previously identified as interstate or intrastate waters. This revision provides additional clarification because the coastal areas but not the specific coastal stream segments are illustrated on the <i>Maps of Alabama's Surface Water Classifications</i> for the Mobile River. The number of waterbody segments or portions of waterbody segments that were deleted was 12 and that were added was 6. http://www.adem.state.al.us/programs/water/watermaps/Mobile-swc.pdf
(911) THE MOBILE RIVER-MOBILE BAY BASIN INTRASTATE WATERS NON-COASTAL WATERS	
	This change identifies 31 non-coastal waterbody segments or portions of the waterbody segments previously identified as interstate or intrastate waters. The number of waterbody segments or portions of waterbody segments that were added was 17. No waterbody segments were deleted.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).

**REVISIONS TO ALABAMA DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE CODE CHAPTERS 335-6-10 AND 335-6-11**

	This change is proposed to add “10 feet above MSL” to define coastal waters.
	This change is proposed to relocate several waterbodies from the Mobile River Basin to their correct location within The Escatawpa River Basin.
335-6-11-.02(403) THE PERDIDO/ESCAMBIA RIVER BASIN (TO INCLUDE THE BLACKWATER, CONECUH, PERDIDO, AND YELLOW RIVER SUB-BASINS)	This change is proposed to split THE PERDIDO/ESCAMBIA RIVER BASIN (TO INCLUDE THE BLACKWATER, CONECUH, PERDIDO, AND YELLOW RIVER SUB-BASINS) into THE BLACKWATER RIVER BASIN, THE ESCAMBIA RIVER BASIN, THE PERDIDO RIVER BASIN, and THE YELLOW RIVER BASIN.
	This change is proposed to add the COASTAL WATERS and NON-COASTAL WATERS headings to distinguish coastal and non-coastal waters within The Perdido River Basin.
(12) THE PERDIDO RIVER BASIN INTERSTATE AND COASTAL WATERS OF THE PERDIDO RIVER BASIN COASTAL WATERS [Shown in the previous rule version as (10) The Perdido/Escambia River Basin (To Include the Conecuh, Perdido, and Yellow River Sub-Basins)]	
	This change identifies 17 coastal waterbody segments previously identified as interstate or intrastate waters. This revision provides additional clarification because the coastal areas but not the specific coastal stream segments are illustrated on the <i>Maps of Alabama's Surface Water Classifications</i> for the Perdido River Basin. The number of waterbody segments or portions of waterbody segments that were deleted was 2 and that were added was 4. http://www.adem.state.al.us/programs/water/watermaps/Perdido-swc.pdf
(12) THE PERDIDO RIVER BASIN INTRASTATE WATERS OF THE PERDIDO RIVER BASIN NON-COASTAL WATERS	
	This change identifies 15 non-coastal waterbody segments or portions of the waterbody segments previously identified as interstate or intrastate waters. The number of waterbody segments or portions of waterbody segments that were added was 8 and that were deleted was 3.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to add “10 feet above MSL” to define coastal waters within The Perdido River Basin.
	This change is proposed to remove unnamed tributary segments with a classification of “F&W” due to it reiterating the current rule stating

**REVISIONS TO ALABAMA DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE CODE CHAPTERS 335-6-10 AND 335-6-11**

	that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02(13 ¹³) THE TALLAPOOSA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove the Christian Creek segment because it is actually an unnamed tributary classified "F&W" and, therefore, reiterates the current rule stating that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02(14 ¹⁴) THE TENNESSEE RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	<p>Swan Creek from Huntsville Brownsferry Road to Town Creek: The Department proposes to upgrade the classification for this segment from Agricultural and Industrial Water Supply (A&I) to Fish and Wildlife (F&W). Available water quality data and information for this segment indicates that the F&W use is attainable.</p> <p>Additional detail: The upgrade to Fish and Wildlife (F&W) use classification for this segment of Swan Creek demonstrates that improvements in water quality are sufficient to meet the F&W use and is consistent with the CWA providing improved protections for fish and aquatic life and water quality. A use analysis was conducted by the Department in accordance with 40 C.F.R. 131, and was based upon the scientific assessment of the physical, chemical, biological and other factors of the stream, in addition to economic factors that may affect use attainment as described in § 131.10(g). Water quality monitoring was conducted to determine trends and point and non-point sources were also analyzed and considered. The conclusion was made by the Department that water quality associated with the F&W use in the 2.77-mile segment of Swan Creek is being met and concluded that the A&I classification is no longer appropriate for this stream segment. Therefore, through the Department's thorough analysis, the A&I use is being revised to the F&W use. In addition, the F&W use will improve downstream water quality conditions and beneficial uses in the downstream portion of Swan Creek and the Tennessee River.</p>

**REVISIONS TO ALABAMA DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE CODE CHAPTERS 335-6-10 AND 335-6-11**

335-6-11-.02(43 15) THE UPPER TOMBIGBEE RIVER BASIN	This change is proposed to combine THE UPPER TOMBIGBEE RIVER BASIN and THE LOWER TOMBIGBEE RIVER BASIN into THE TOMBIGBEE RIVER BASIN.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(44 2) THE WARRIOR RIVER BASIN	This change is proposed to rename THE WARRIOR RIVER BASIN to THE BLACK WARRIOR RIVER BASIN.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1208-B Main Street
Daphne, Alabama 36526

IN REPLY REFER TO:

2017-TA-0680

MAY 30 2017

Ms. Joanne Benante, Chief
U. S. Environmental Protection Agency
Water Quality Planning Branch
Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960

Dear Ms. Benante:

Thank you for your letter of May 9, 2017, and its associated biological evaluation (BE), requesting Endangered Species Act (ESA) Section 7 concurrence on the U.S. Environmental Protection Agency (EPA) effects determination for the proposed revisions to the water quality standards (WQS) by the Alabama Department of Environmental Management (ADEM). The proposed updates include a revision to the chlorophyll *a* criteria for the Alabama portions of West Point Lake in Chambers County, Alabama, to the more protective criteria adopted by the Georgia Environmental Protection Division (EPD); and a revision to the water use classification for Swan Creek (from Huntsville Browns Ferry Road to Town Creek) in Limestone County, Alabama, from Agricultural and Industrial Water Supply to the more protective Fish and Wildlife water use classification.

The proposed revision to update the chlorophyll *a* criteria for West Point Lake would lower the chlorophyll *a* criterion from 27 µg/l to 22 µg/l measured at the deepest point of the main river channel at the West Point Dam forebay. The revision would also add a not to exceed value of 24 µg/l for chlorophyll *a* at the LaGrange water intake. The proposed revision to change the water use classification in Swan Creek from Agricultural and Industrial water supply to Fish and Wildlife would result in a more stringent WQS for temperature, dissolved oxygen, and bacteria, as well as, numeric aquatic life and human health criteria. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

We understand that you determined that this project may affect, but is not likely to adversely affect the following federally listed species within the proposed Swan Creek project area:

Anthony's riversnail (*Athearnia anthonyi*) – Endangered
Cracking pearlymussel (*Hemistena lata*) – Endangered
Pink mucket (*Lampsilis abrupta*) – Endangered
Rough pigtoe (*Pleurobema plenum*) – Endangered
Sheepnose (*Plethobasus cyphus*) – Endangered

Snuffbox (*Epioblasma triquetra*) – Endangered
Spectaclecase (*Cumberlandia monodonta*) – Endangered
Gray bat (*Myotis grisescens*) – Endangered
Indiana bat (*Myotis sodalis*) – Endangered
Northern long-eared bat (*Myotis septentrionalis*) – Threatened

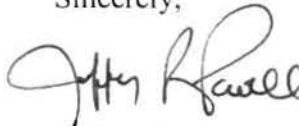
We understand that you determined that this project may affect, but is not likely to adversely affect the following federally listed species within the proposed West Point Lake project area:

Indiana bat (*Myotis sodalis*) – Endangered

Your BE also made no effect determinations for additional species within both projects. While the ESA gives federal action agencies the authority to make a no effect determination without additional concurrence from the Service, we certainly appreciate you notifying us of your decision.

We recognize that the revised classifications for Swan Creek and West Point Lake will result in criteria that ultimately improves water quality for aquatic and aquatic dependent species by providing beneficial effects without any adverse effects to the species or their habitats. As such, we concur with the EPA's determination that this project will not likely adversely affect the above mentioned listed species for their respective projects. For further discussion, please contact Mr. Anthony Ford of my staff at (251) 441-5838.

Sincerely,



Jeffrey R. Powell
Deputy Field Supervisor
Alabama Ecological Services Field Office



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 09 2017

Mr. Bill Pearson
Field Supervisor
U.S. Fish and Wildlife Service
Alabama Ecological Services Field Office
1208-B Main Street
Daphne, Alabama 35626

Dear Mr. Pearson:


The U.S. Environmental Protection Agency is obligated under Section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(a)(2), to insure that any action it approves is not likely to jeopardize the continued existence of threatened or endangered species or result in the destruction of adverse modification of critical habitat. The EPA therefore, requests that the U.S. Fish and Wildlife Service (Service) review the enclosed biological evaluation (BE) for the EPA's approval of the revisions to the water quality standards (WQS) by the Alabama Department of Environmental Management, pursuant to Section 303(c) of the Clean Water Act (CWA), 33 U.S.C. § 1313(c).

The revisions are described in the enclosed BE, as are the effects determinations for threatened and endangered species in Alabama waters where the revisions apply. The EPA is submitting this request under the informal consultation provision of the ESA regulations at 50 C.F.R. § 402.13, and has made determinations of no effect or may affect, but not likely to adversely affect for all aquatic and aquatic dependent species and their designated critical habitats within statewide waters as detailed within the enclosed BE. The EPA is currently reviewing the proposed WQS for the State of Alabama.

The Memorandum of Agreement signed by the Service and the EPA regarding enhanced coordination under the CWA and ESA, provision V.B.6., requests that the EPA notify the Service in writing when making a may affect, not likely to adversely affect determination. Additionally, the Service will respond in writing within 30 days of receipt of such determination, unless extended by mutual agreement. The response will state whether the Service concurs or does not concur. If the Service does not concur, it will provide a written explanation that includes the species and/or critical habitat of concern, the perceived adverse effects, supporting information, and a basic rationale. 66 Fed. Reg. 11,202-11,210 (Feb. 22, 2001).

Please contact Ms. Lydia Mayo at (404) 562-9247 or mayo.lydia@epa.gov should you have questions regarding the enclosed BE.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante
Chief
Water Quality Planning Branch

Enclosure

cc: Mr. Jeff Powell, FWS, Daphne, AL (electronic only)
Mr. Leopoldo Miranda, FWS, Atlanta, GA (electronic only)

BIOLOGICAL EVALUATION
FOR THE ENDANGERED SPECIES ACT
SECTION 7 CONSULTATION
FOR THE ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT'S
2017 WATER QUALITY STANDARDS REVISIONS

Prepared by the Environmental Protection Agency Region 4
May 2017

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Overview

The purpose of this Biological Evaluation (BE) is to analyze the effects which may occur to threatened and endangered species and/or designated critical habitat from the revision to water quality standards (WQS) contained in the Alabama Department of Environmental Management's (ADEM or Department) Administrative Code Chapters 335-6-10 and 335-6-11. ADEM held its triennial review public hearing on July 16, 2015 for its proposed revisions and held the public hearing for the finalized revisions on November 10, 2016. The revisions were considered and approved for adoption by the Alabama Environmental Management Commission (EMC) on December 16, 2016. The rule amendments became effective for state purposes on February 3, 2017, and were certified by the Alabama Attorney General on March 16, 2017. The EPA received a letter dated April 3, 2017, from the General Counsel of ADEM to Ms. V. Anne Heard, Acting Regional Administrator, U.S. EPA Region 4, certifying that the amendments were duly adopted pursuant to state law. The revisions were received by the U.S. Environmental Protection Agency on April 20, 2017, for review, pursuant to Section 303(c) of the Clean Water Act (CWA). The revisions to ADEM's Admin. Code Chapters 335-6-10 and 335-6-11 are summarized below.

This BE was prepared by the EPA to determine if the EPA's approval, pursuant to Section 303(c) of the CWA, of the Department's revised WQS is likely to jeopardize the continued existence of, or adversely affect, federally listed endangered or threatened species, or result in the adverse modification of designated critical habitat of such species in fresh waters of the State of Alabama in accordance with section 7(a)(2) of the Endangered Species Act (ESA).

Description of the Federal Action

Under Section 303(c) of the CWA and 40 C.F.R. § 131, States and authorized tribes have primary responsibility to develop and adopt WQS to protect their waters. As required by Section 303(c) of the CWA and 40 C.F.R. § 131, the EPA reviews new and revised WQS that have been adopted by States and authorized tribes. State and Tribal WQS are not considered effective under the CWA until approved by the EPA.

The Federal action being evaluated is the EPA approval of the revised WQS rules as related to the protection of aquatic life uses consistent with the CWA. Section 303(c)(3) of the CWA states in part: If the Administrator, within sixty days after the date of submission of the revised or new standard, determines that such standard meets the requirements of this Act, such standard shall thereafter, be the water quality standard for the applicable waters of the State...

A. History of ESA Consultation for this CWA Action

Section 7(a)(2) of the ESA requires the EPA, in consultation with the FWS, to ensure that any action authorized by the agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat for such species. As provided in the Memorandum of Agreement between the EPA, the FWS, and the NMFS regarding enhanced coordination of CWA and ESA obligations, the EPA uses a BE to analyze

whether a new or revised water quality WQS prepared to determine whether the EPA's approval of specific aspects of the Department's surface WQS may affect federally-listed endangered or threatened species or the designated critical habitat of such species. If the EPA determines that approval may affect listed species or critical habitat but is not likely to adversely affect listed species or habitat, then formal consultation with the FWS is not required if the EPA obtains concurrence on the "may affect, not likely to adversely affect" finding from the FWS. However, if the EPA determines that the action is likely to adversely affect listed species or critical habitat, then ESA formal consultation with the FWS is required to determine if the action in question is likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat.

The EPA Region 4 staff informed the FWS Daphne Field Office staff regarding ADEM's triennial review public hearing in 2015 and the final hearing in 2016 for proposed WQS revisions. The proposed revisions were provided for ADEM's public hearings on the Alabama EMC public hearings and meetings website at <http://adem.alabama.gov/newsEvents/pubHearings.cnt>. The complete list of revisions is outlined in Attachment A. The portions of the proposed revisions that are related to aquatic life and which are being addressed in this BE are in yellow highlight in the table in Attachment A. These revisions are specified in the section *Description of Provisions Considered by the EPA for the Endangered Species Act (ESA) Section 7 Consultation* below.

The list of threatened and endangered species for Limestone and Chambers Counties where the revised WQS for Swan Creek and West Point lake relate to aquatic life and not human health and therefore may affect species in the state of Alabama under the jurisdiction of the FWS are contained in the *Summary of Species Present in Alabama* section below.

B. Overview of Water Quality Standards

The CWA provides the statutory basis for the WQS program and defines broad water quality goals. The purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. Section 101(a)(2) of the CWA sets out a national "fishable/swimmable" goal that wherever attainable, waters achieve a level of quality that provides for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water. 33 U.S.C. § 1251(a). Section 303(c) of the CWA requires that all states adopt WQS and that the EPA review and approve or disapprove these standards. States first identify designated uses they wish to protect in state waters, such as drinking water supply, propagation of fish, or recreation. States then establish water quality criteria that protect those designated uses. Finally, WQS must include an antidegradation policy and implementation procedures consistent with the EPA's policy to protect existing uses, high quality waters, and outstanding national resource waters. 33 U.S.C. § 1313(c)(2)(A); 40 C.F.R. § 131. States must review those standards every three years and revise the standards, as necessary. This public process, commonly referred to as the triennial review, allows for new technical and scientific data to be considered in order to update the standards. The regulatory requirements governing WQS are established at 40 C.F.R. Part 131.

Any new or revised WQS must be submitted to the EPA for review and the EPA must approve or disapprove those standards. Upon approval by the EPA, the state's standards become effective for CWA purposes. 40 C.F.R. § 131.21(c). If the EPA disapproves the state standards, it must notify the state and specify the changes the state must adopt to meet CWA requirements. 33 U.S.C. § 1313(c)(3). If adequate revisions are not adopted by the state, the EPA must propose federal WQS for the state and promulgate final standards unless, before promulgation, the state adopts standards that the EPA determines to be in compliance with the CWA. 33 U.S.C. § 1313(c)(4).

Description of Provisions Considered by the EPA for the Endangered Species Act (ESA) Section 7 Consultation

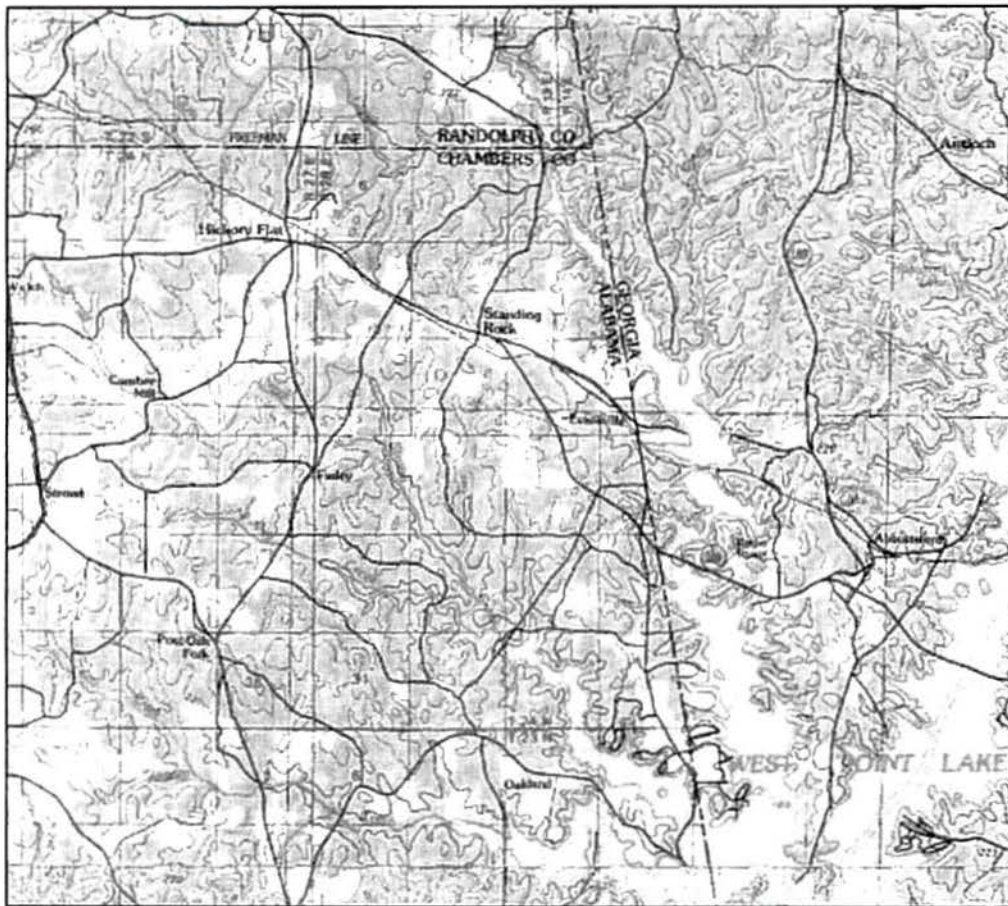
335-6-10 Water Quality Criteria

335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes

335-6-10-.11(2)(c) The Chattahoochee River Basin

The Department proposes to update the West Point chlorophyll *a* criteria to correspond with Georgia's updated criteria. The revision would change the chlorophyll *a* value taken from the mean of photic-zone composite chlorophyll *a* samples collected monthly April through October from a shall not exceed value of 27 ug/l to a "shall not" exceed value of 22 ug/l as measured at the deepest point, main river channel, dam forebay. The revision would also add the shall not exceed value of 24 ug/l as measured at the LaGrange Water Intake.

The revision to update the chlorophyll *a* criteria for the Alabama portions of West Point Lake in Chambers County to coincide with the criteria adopted by the Georgia Department of Environmental Protection (EPD) for West Point Lake is based on more recent monitoring data and revised hydrodynamic and water quality models utilized by EPD that support the lower chlorophyll *a* value. The criterion of 22 µg/l (revised from 27 µg/l) measured at the deepest point, main river channel, dam forebay is consistent with scientific data supporting this revision. The additional 24 µg/l criterion, as measured at the LaGrange water intake, is consistent with scientific data supporting this revision. The revised values will further support existing uses and protect the water quality of those uses.



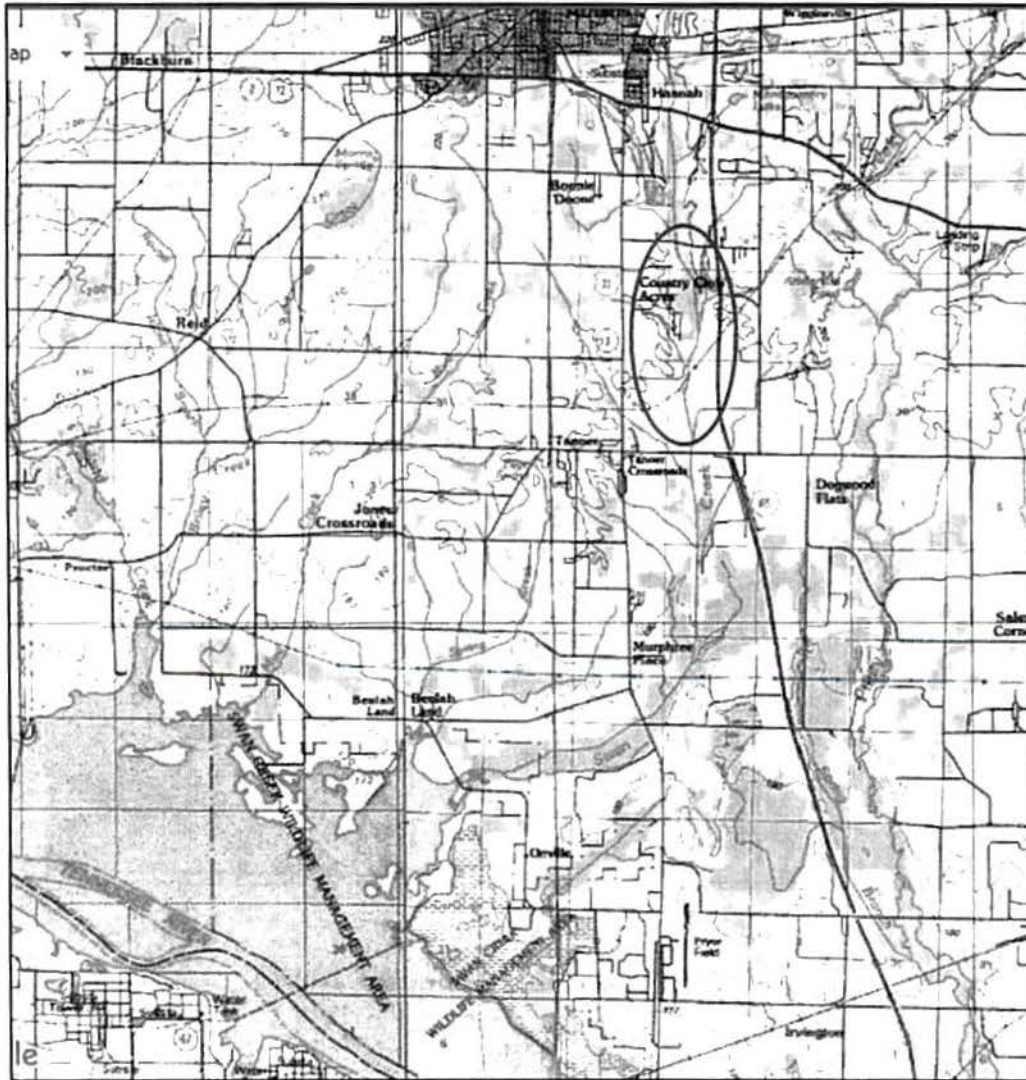
West Point Lake

335-6-11 Water Use Classifications for Interstate and Intrastate Waters

335-6-11-.02(12) The Tennessee River Basin

The Department proposes to upgrade the classification for Swan Creek (from Huntsville Brownsferry Road to Town Creek) in Limestone County, from Agricultural and Industrial Water Supply (A&I) to Fish and Wildlife (F&W). Available water quality data and information for this segment indicate that the F&W use is attainable.

The criteria for the Fish and Wildlife use can be found at Alabama Administrative Code 335-6-10-.09(5), and include best usage of waters, conditions related to the best usage of waters and specific criteria for pollutants. The criteria for the Agriculture and Industrial Water Supply use can be found at Alabama Administrative Code 335-6-10-.09(7), and include best usage of waters, conditions related to best usage of waters and specific criteria for pollutants. The upgrade to F&W results in more stringent WQS for temperature, dissolved oxygen, and bacteria and includes numeric aquatic life and human health criteria. The individual criteria for each use are referenced in the Alabama administrative codes cited above and can be found on ADEM's website at <http://adem.alabama.gov/alEnviroRegLaws/files/Division6Vol1.pdf>.



Swan Creek

Description of the Geographic Areas That May Be Affected by the Action

The action area for the chlorophyll *a* revision includes the fresh waters within the portions of West Point Lake within Chambers County in the State of Alabama to which the revised lake criteria will apply. The action area for the classification upgrade includes the fresh waters within the upgraded portions of Swan Creek in Limestone County in the State of Alabama to which the revised stream use designation and associated criteria will apply.

Summary of Species Present in Alabama

The list of threatened and endangered species in the tables below were listed for Limestone and Chambers Counties, Alabama on the FWS Environmental Conservation Online System (ECOS) website (<https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=01083>).

The following FWS websites were also utilized to determine locations of species in Limestone County:

<https://www.fws.gov/midwest/endangered/clams/spectaclecase/index.html>

https://www.fws.gov/midwest/endangered/clams/crack_fc.html

<https://www.fws.gov/midwest/endangered/clams/rayedbean/pdf/FRRayedBeanSnuffboxFinalList.pdf>

<https://www.fws.gov/MIDWEST/endangered/clams/sheepnose/pdf/FRFinalListRuleSheepnoseSpecMarch2012.pdf>

<https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=E05B>

<https://www.fws.gov/Midwest/endangered/mammals/nleb/pdf/FRnlebFinalListing02April2015.pdf>

<https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=G098>

The list of threatened and endangered species in the table below for Limestone County, Alabama are under the jurisdiction of the FWS and are being considered for this action. The table presents the name, status, description of location, type of habitat and the EPA's final ESA Section 7 determinations of no effect or may affect, not likely to adversely affect (may affect, NLAA).

Limestone County, Alabama						
Group	Name	Status	Description of Location	CH	Type of Habitat	ESA Determination
Clams	Pink mucket (pearlymussel) (<i>Lampsilis abrupta</i>)	E	It does not appear that this species is present in Swan Creek but may be present downstream of the creek in the Tennessee River mainstem.	no	Aquatic	May affect, NLAA
	Littlewing pearlymussel (<i>Pegias fabula</i>)	E	It does not appear that this species is present in Swan Creek and does not appear to be present downstream of the creek in the Tennessee River mainstem.	no	Aquatic	No effect
	Rough pigtoe (<i>Pleurobema plenum</i>)	E	It does not appear that this species is present in Swan Creek but may be present downstream of the creek in the Tennessee River mainstem.	no	Aquatic	May affect, NLAA
	Spectaclecase (mussel) (<i>Cumberlandia monodonta</i>)	E	It does not appear that this species is present in Swan Creek but may be present downstream of the creek in the Tennessee River mainstem.	no	Aquatic	May affect, NLAA
	Cracking pearlymussel (<i>Hemistena lata</i>)	E	It does not appear that this species is present in Swan Creek but may be present in the Tennessee River mainstem downstream near the Elk River.	no	Aquatic	May affect, NLAA
	Snuffbox mussel (<i>Epioblasma triquetra</i>)	E	It does not appear that this species is present in Swan Creek but may be present downstream	no	Aquatic	May affect, NLAA

Limestone County, Alabama						
Group	Name	Status	Description of Location	CH	Type of Habitat	ESA Determination
			of the creek in the Tennessee River mainstem.			
	Sheepnose Mussel (<i>Plethobasus cyphus</i>)	E	It does not appear that this species is present in Swan Creek but may be present downstream of the creek in the Tennessee River mainstem and further downstream in the Tennessee River mainstem muscle shoals area.	no	Aquatic	May affect, NLAA
Crustaceans	Alabama cave shrimp (<i>Palaemonias alabamiae</i>)	E	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	no	Aquatic	No effect
Fishes	Snail darter (<i>Percina tanasi</i>)	T	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	no	Aquatic	No effect
	Slackwater darter (<i>Etheostoma boschungii</i>)	T	It does not appear that this species is present in the segment of Swan Creek being upgraded or downstream of the segment of Swan Creek being upgraded. This species is reported to be present in Swan Creek upstream of the confluence of Town Creek and Swan Creek.	yes	Aquatic	No effect
	Spring pygmy sunfish (<i>Elassoma alabamiae</i>)	T	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	yes	Aquatic	No effect
	Boulder darter (<i>Etheostoma wapiti</i>)	E	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	no	Aquatic	No effect
Mammals	Indiana bat (<i>Myotis sodalis</i>)	E	It appears that this species exists in Limestone County.	yes	Aquatic dependent	May affect, NLAA
	Gray bat (<i>Myotis grisescens</i>)	E	It appears that this species exists in Limestone County.	no	Aquatic dependent	May affect, NLAA
	Northern Long-Eared Bat (<i>Myotis septentrionalis</i>)	T	It appears that this species exists in Limestone County.	no	Aquatic dependent	May affect, NLAA
Snails	Anthony's riversnail	E	It does not appear that this species is present in Swan Creek	no	Aquatic	May affect, NLAA

Limestone County, Alabama						
Group	Name	Status	Description of Location	CH	Type of Habitat	ESA Determination
	<i>(Athearnia anthonyi)</i>		but may be present in the Tennessee River mainstem downstream near the Elk River.			
	Armored snail <i>(Pyrgulopsis (=Marstonia) pachyta)</i>	E	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	no	Aquatic	No effect
	Slender campeloma <i>(Campeloma decampi)</i>	E	It does not appear that this species is present in Swan Creek or downstream in the Tennessee River.	no	Aquatic	No effect

<https://www.fws.gov/midwest/endangered/clams/spectaclecase/index.html>

https://www.fws.gov/midwest/endangered/clams/crack_fc.html

<https://www.fws.gov/midwest/endangered/clams/rayedbean/pdf/FRRayedBeanSnuffboxFinalList.pdf>

<https://www.fws.gov/MIDWEST/endangered/clams/sheepnose/pdf/FRFinalListRuleSheepnoseSpecMarch2012.pdf>

<https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=E05B>

<https://www.fws.gov/Midwest/endangered/mammals/nleb/pdf/FRnlebFinalListing02April2015.pdf>

<https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=G098>

The list of threatened and endangered species in the table below for Chambers County, Alabama are under the jurisdiction of the FWS and are being considered for this action. The table presents the name, status, description of location, type of habitat and the EPA's final ESA section 7 determinations of no effect or may affect, NLAA. The information in the table below was taken from the FWS ECOS website (<https://ecos.fws.gov/ecp0/reports/species-by-current-range-county?fips=01083>).

Chambers County, Alabama						
Group	Name	Status	Description of location	CH	Type of Habitat	ESA Determination
Clams	Purple bankclimber (mussel) <i>(Elliptioideus sloatianus)</i>	T	It does not appear that this species is present in the Alabama portions of West Point Lake or its tributaries.	yes	Aquatic	No effect
	Oval pigtoe <i>(Pleurobema pyriforme)</i>	E	It does not appear that this species is present in West Point Lake and its tributaries.	yes	Aquatic	No effect
	Finelined pocketbook <i>(Lampsilis altilis)</i>	T	It does not appear that this species is present in the Alabama portions of West Point Lake or its tributaries.	yes	Aquatic	No effect
	Ovate clubshell <i>(Pleurobema perovatum)</i>	E	It does not appear that this species is present in the Alabama portions of West Point Lake or its tributaries.	yes	Aquatic	No effect

Chambers County, Alabama						
Group	Name	Status	Description of location	CH	Type of Habitat	ESA Determination
Flowering Plants	Little amphianthus (<i>Amphianthus pusillus</i>)	T	It appears that this species may exist in areas adjacent to the Alabama portions of West Point Lake and its tributaries.	no	Terrestrial	No effect
	White fringeless orchid (<i>Platanthera integrilabia</i>)	T	It does not appear that this species is present in areas adjacent to the Alabama portions of West Point Lake and its tributaries.	no	Terrestrial	No effect
Mammals	Indiana bat (<i>Myotis sodalis</i>)	E	It appears that this species may exist in areas adjacent to the Alabama portions of West Point Lake and its tributaries.	yes	Aquatic dependent	May affect, NLAA
	Northern Long-Eared Bat (<i>Myotis septentrionalis</i>)	T	It does not appear that this species is present in areas adjacent to the Alabama portions of West Point Lake and its tributaries.	no	Aquatic dependent	No effect

Species of Interest for the ESA Consultation

According to the Endangered Species Consultation Handbook, in order for the EPA to determine that a proposed action is a may affect, NLAA action for threatened and endangered species or designated critical habitat, all of the effects of that action must be expected to be discountable, insignificant, or completely beneficial. Also, according to the Draft Framework for Conducting Biological Evaluations of Aquatic Life Criteria Methods Manual, there are three different types of species: "aquatic" which have at least one of their life stages spent as a water-breathing organism or plants that are submerged or emergent; "aquatic dependent" which are not water-breathing organisms, but a meaningful amount of their diet includes aquatic organisms; and "terrestrial," which have only limited amount of exposure to waters of the United States. Due to the fact that the majority of listed species above are not present, the determinations are considered no effect. There are some species located downstream of the segment where the use was revised that were determined as may affect, NLAA. These determinations and all other determinations are discussed in more detail below. The current proposed endangered species, the Black Warrior waterdog, does not occur in the action areas.

No Effect Determinations

No effect determinations:

For the aquatic and aquatic dependent species determined not to exist in or downstream of waters in Limestone or Chambers Counties - the littlewing pearlymussel, Alabama cave shrimp, snail darter, slackwater darter, spring pygmy sunfish, boulder darter, armored snail, slender campeloma, purple bankclimber, finelined pocketbook, ovate clubshell and northern long-eared

bat, the EPA has determined the revisions to water quality standards will have no effect on these species.

For species that are identified as not aquatic dependent or primarily terrestrial species including the little amphianthus and white fringeless orchid in Chambers County, the EPA has determined that the revision to the chlorophyll *a* criteria for West Point lake will have no effect on these species.

The no effect determinations mean there are no impacts, positive or negative, to listed species.

May Affect, Not Likely to Adversely Affect Determinations

For the aquatic species determined to have the possibility to exist downstream of Swan Creek in the Tennessee River mainstem, including the pink mucket, rough pigtoe, spectaclecase, cracking pearlymussel, snuffbox mussel, sheepsnose mussel and Anthony's riversnail, the EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the upgrade to Swan Creek may have contemporaneous positive effects on species downstream without any adverse effects to the species or habitat; however, the effects are considered insignificant due to the minimal scope of the impacts downstream based on the quantity of the stream flow as compared to the Tennessee River. In addition, the effects are most likely not able to be detected, measured, or otherwise will not be able to be evaluated.

The aquatic species, the oval pigtoe, was determined to possibly exist in the Alabama portions of West Point Lake. The EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the slight lowering of chlorophyll *a* in the lake may have contemporaneous positive effects without any adverse effects to the species or habitat; however, the effects are considered insignificant due to the minimal scope of the impacts based on the limited (and uncertain) habitat of the species in the Alabama portions of the lake. In addition, the effects will most likely be undetectable, not measurable, or otherwise will not be able to be evaluated.

For the aquatic dependent species that may exist in Chambers County around the Alabama portions of West Point Lake and in Limestone County in and around the upgraded portion of Swan Creek, including the Indiana bat, gray bat and northern long-eared bat, the EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the improved water quality (chlorophyll *a* levels) in West Point Lake and upgraded use classification for Swan Creek may have beneficial effects without adverse effects to the species or habitat. However, the effects are considered insignificant due to the minimal scope of the impacts and due to the fact that the effects may not be measurable or may not be able to be evaluated.

As described above on page 11, the may affect, NLAA determination means that all effects are beneficial, insignificant, or discountable. Beneficial effects have contemporaneous positive

effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact and include those effects that are undetectable, not measurable, or cannot be evaluated. Discountable effects would not be applicable here because they may occur but may not be measurable.

Life History and Designated Critical Habitat Summaries

Species information can be found on the FWS's ECOS website or other website references listed in Summary of Species Present in Alabama section above.

Effects of the Action on Species of Interest for ESA Consultation

This section of the BE sets out the basis for the EPA's conclusion that the Department's revised water quality for Swan Creek and the Alabama portions of West Point Lake are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. The EPA has determined that this action will have may affect, NLAA impacts or no effect on the species listed above.

Summary of the EPA Analysis and Conclusions

The use upgrade for Swan Creek will improve water quality in Swan Creek and may improve water quality and provide beneficial effects to the aquatic species that may exist downstream of Swan Creek in the Tennessee River mainstem, including the pink mucket, rough pigtoe, spectaclecase, cracking pearlymussel, snuffbox mussel, sheepnose mussel and Anthony's riversnail. The EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the upgrade to Swan Creek may have contemporaneous positive effects without any adverse effects to the species or habitat; however, the effects are considered insignificant due to the minimal scope of the impacts downstream based on the quantity of the stream flow as compared to the Tennessee River. It is likely that the effects will not be detectable, measurable, or otherwise able to be evaluated.

The aquatic species, the oval pigtoe, may exist in the Alabama portions of West Point Lake. The EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the slight lowering of chlorophyll *a* in the lake may have contemporaneous positive effects without any adverse effects to the species or habitat; however, the effects are considered insignificant due to the minimal scope of the impacts based on the limited (and uncertain) habitat of the species in the Alabama portions of the lake. In addition, the effects will most likely to be undetectable, not measurable, or otherwise not able to be evaluated.

The aquatic dependent species that may exist in Chambers County around the Alabama portions of West Point Lake and in Limestone County in and around the upgraded portion of Swan Creek, including the Indiana bat, gray bat and northern long-eared bat, the EPA has made a determination of may affect, NLAA due to the circumstances that all effects are considered to be

either beneficial or insignificant. The possible beneficial effects due to improved water quality associated with the improved chlorophyll *a* levels in West Point Lake may have beneficial effects without adverse effects to the species or habitat; however, the effects are considered insignificant due to the minimal scope of the impacts and the fact that the effects will most likely be undetectable, not measurable, or otherwise will not be able to be evaluated.

Endangered Species Act Section 7 Effects Determinations

Based upon the information outlined above for the upgrade to the use classification of F&W for Swan Creek and the revised lake chlorophyll *a* criteria for West Point Lake, the EPA has determined that the effects are determined as no effect or may affect, NLAA and, as such, are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their critical habitat. As described above, the may affect, but not likely to adversely affect determination for the identified species means that all effects are either considered beneficial or insignificant. It is the EPA's opinion that the improved water quality of Swan Creek and West Point Lake may be considered insignificant as they relate to the size of the impact they will have and also that it is likely that the effects and improved water quality will not be measurable or otherwise able to be evaluated directly.

Presumed Beneficial Effects

Because the revised classification for Swan Creek and West Point Lake result in criteria that improve water quality, the EPA presumes that the improved water quality of Swan Creek and West Point Lake will provide beneficial effects without any adverse effects to the species or habitat.

ATTACHMENT A

Summary of Revisions to ADEM Administrative Code Chapters 335-6-10 and 335-6-11 and Details Supporting the Revisions

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
335-6-10 WATER QUALITY CRITERIA	
335-6-10-.02 Definitions	The Department proposes to add the definition of "Coastal Waters".
335-6-10-.05 General Conditions Applicable to All Water Quality Criteria	
335-6-10-.05(5)	The Department proposes to extend the recreational use season from June through September to May through October.
335-6-10-.07 Toxic Pollutant Criteria Applicable to State Waters	
335-6-10-.07(1)(b)	This change is proposed to remove the word "interstate" and add "coastal waters of the Escatawpa River Basin".
335-6-10-.07(1)(g)	This change is proposed to replace "State" with "Alabama" for Department of Public Health
335-6-10-.08 Waste Treatment Requirements	
335-6-10-.08(a)	This change is proposed to remove language to be consistent with 40 C.F.R. 133.
335-6-10-.08(b)	This change is proposed to add correct punctuation.
335-6-10-.09 Specific Water Quality Criteria	
335-6-10-.09(2) PUBLIC WATER SUPPLY	The Department proposes to add language to clarify that incidental water contact occurs year-round and whole body water-contact recreation occurs during the months of May through October.
	The Department proposes to rename "outdoor swimming places" to "outdoor swimming areas".
	The Department proposes to extend the recreational use season from June through September to May through October.
	The Department proposes to correct the E. coli bacteria criteria from 487 colonies/100 ml to 298 colonies/100 ml due to an error.
335-6-10-.09(3) SWIMMING AND OTHER WHOLE BODY WATERCONTACT SPORTS	The Department proposes to rename "outdoor swimming places" to "outdoor swimming areas".
335-6-10-.09(4) SHELLFISH HARVESTING	The Department proposes to add language to recognize that this use classification only applies to coastal waters.
	The Department proposes to update the reference to <i>National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2011 Revision</i> , to <i>National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish: 2015 Revision</i> .

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
	The Department proposes to add language to clarify that incidental water contact occurs year-round and whole body water-contact recreation occurs during the months of May through October.
	The Department proposes to remove the E. coli bacteria criteria because it does not apply to coastal waters strictly found in shellfish harvesting areas.
	The Department proposes to extend the recreational use season from June through September to May through October.
	The Department proposes to rename "outdoor swimming places" to "outdoor swimming areas".
335-6-10-.09(5) FISH AND WILDLIFE	The Department proposes to remove the language ", and any other usage except for swimming and water contact sports or as a source of water supply for drinking or food processing purposes" to clarify the uses regarding this classification.
	The Department proposes to add language to clarify that incidental water contact occurs year-round and whole body water-contact recreation occurs during the months of May through October.
	The Department proposes to extend the recreational use season from June through September to May through October.
	The Department proposes to correct the E. coli bacteria criteria from 487 colonies/100 ml to 298 colonies/100 ml due to an error.
	The Department proposes to rename "outdoor swimming places" to "outdoor swimming areas".
335-6-10-.11 Water Quality Criteria Applicable to Specific Lakes	
335-6-10-.11(2)	The Department proposes to update the river basin names and reorder the basins in alphabetical order. The Lower Tombigbee River Basin and The Upper Tombigbee River Basin will be combined into The Tombigbee River Basin; The Perdido/Escambia River Basin will be split into The Escambia River Basin and The Yellow River Basin; and The Warrior River Basin will be renamed to The Black Warrior River Basin.
335-6-10-.11(2)(c) The Chattahoochee River Basin	The Department proposes to update the West Point chlorophyll <i>a</i> criteria to correspond with Georgia's updated criteria.
335-6-10-.12 Implementation of the Antidegradation Policy	
335-6-10-.12(3)(a)	The Department proposes to revise the language from "EPA approved Section 303(d) list" to "Category 4 or Category 5 waters".
335-6-11 WATER USE CLASSIFICATIONS FOR INTERSTATE AND INTRASTATE WATERS	This change is proposed to update the chapter title from "WATER USE CLASSIFICATIONS FOR INTERSTATE AND INTRASTATE WATERS" to "USE CLASSIFICATIONS FOR SURFACE WATERS".
335-6-11-.01 The Use Classification System	

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
<i>335-6-11-.01(3)</i>	This change is proposed to rename “streams” to “waterbodies” to be consistent with the renaming of the header in 335-6-11-.02 from “Stream” to “Waterbody”.
<i>335-6-11-.01(4)</i>	This change is proposed to add Escatawpa River Basin and revise Perdido-Escambia River Basin to Perdido River Basin to reflect the updated river basin names.
<i>335-6-11-.01(5)</i>	This change is proposed to rename “stream” to “waterbody” to be consistent with the renaming of the header in 335-6-11-.02 from “Stream” to “Waterbody”.
335-6-11-.02 Use Classifications	This change is proposed to rename the header from “Stream” to “Waterbody” to include other bodies of water in addition to streams.
	This change is proposed to arrange the updated river basin names in alphabetical order.
	This change is proposed to remove the INTERSTATE WATERS and INTRASTATE WATERS headings, as it is antiquated and no longer necessary.
<i>335-6-11-.02(1) THE ALABAMA RIVER BASIN</i>	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove unnamed tributary segments with a classification of “F&W” due to it reiterating the current rule stating that segments not included by name are considered to be acceptable for a “Fish and Wildlife” classification unless demonstrated otherwise.
<i>335-6-11-.02(2) THE CAHABA RIVER BASIN</i>	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
<i>335-6-11-.02(3) THE CHATTAHOOCHEE RIVER BASIN</i>	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(4) THE CHIPOLA RIVER BASIN	This change is proposed to correct a "From" location to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(5) THE CHOCTAWHATCHEE RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(6) THE COOSA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove unnamed tributary segments with a classification of "F&W" due to it reiterating the current rule stating that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02(7) THE ESCATAWPA RIVER BASIN	This change is proposed to add the COASTAL WATERS and NON-COASTAL WATERS headings to distinguish coastal and non-coastal waters.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to relocate several waterbodies from the Mobile River Basin to their correct location within The Escatawpa River Basin.
	This change is proposed to add a note regarding shellfish harvesting waters within The Escatawpa River Basin.
335-6-11-.02(8) THE LOWER TOMBIGBEE RIVER BASIN	This change is proposed to combine THE LOWER TOMBIGBEE RIVER BASIN and THE UPPER TOMBIGBEE RIVER BASIN to form THE TOMBIGBEE RIVER BASIN
	This change is proposed to correct grammatical errors and clarify existing language.

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(9) THE MOBILE RIVER-MOBILE BAY BASIN	This change is proposed to add the COASTAL WATERS and NON-COASTAL WATERS headings to distinguish coastal and non-coastal waters.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to add “10 feet above MSL” to define coastal waters.
	This change is proposed to relocate several waterbodies from the Mobile River Basin to their correct location within The Escatawpa River Basin.
335-6-11-.02(10) THE PERDIDO/ESCAMBIA RIVER BASIN (TO INCLUDE THE BLACKWATER, CONECUH, PERDIDO, AND YELLOW RIVER SUB-BASINS)	This change is proposed to split THE PERDIDO/ESCAMBIA RIVER BASIN (TO INCLUDE THE BLACKWATER, CONECUH, PERDIDO, AND YELLOW RIVER SUB-BASINS) into THE BLACKWATER RIVER BASIN, THE ESCAMBIA RIVER BASIN, THE PERDIDO RIVER BASIN, and THE YELLOW RIVER BASIN.
	This change is proposed to add the COASTAL WATERS and NON-COASTAL WATERS headings to distinguish coastal and non-coastal waters within The Perdido River Basin.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to add “10 feet above MSL” to define coastal waters within The Perdido River Basin.
	This change is proposed to remove unnamed tributary segments with a classification of “F&W” due to it reiterating the current rule stating

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
	that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02(11) THE TALLAPOOSA RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	This change is proposed to remove the Christian Creek segment because it is actually an unnamed tributary classified "F&W" and, therefore, reiterates the current rule stating that segments not included by name are considered to be acceptable for a "Fish and Wildlife" classification unless demonstrated otherwise.
335-6-11-.02(12) THE TENNESSEE RIVER BASIN	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
	Swan Creek from Huntsville Brownsferry Road to Town Creek: The Department proposes to upgrade the classification for this segment from Agricultural and Industrial Water Supply (A&I) to Fish and Wildlife (F&W). Available water quality data and information for this segment indicates that the F&W use is attainable.
335-6-11-.02(13) THE UPPER TOMBIGBEE RIVER BASIN	This change is proposed to combine THE UPPER TOMBIGBEE RIVER BASIN and THE LOWER TOMBIGBEE RIVER BASIN into THE TOMBIGBEE RIVER BASIN.
	This change is proposed to correct grammatical errors and clarify existing language.
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the "from" location of a tributary to a reservoir to display the reservoir name.
	This change is proposed to correct waterbody names to correspond with the GNIS (Geographical Name Information System).
335-6-11-.02(14) THE WARRIOR RIVER BASIN	This change is proposed to rename THE WARRIOR RIVER BASIN to THE BLACK WARRIOR RIVER BASIN.
	This change is proposed to correct grammatical errors and clarify existing language.

Administrative Code Reference	Description of the revision of the Water Quality Criteria or Water Use Classification Revision
	This change is proposed to update the reservoir and reservoir embayment names to the following format: River/Stream Name (Reservoir Name).
	This change is proposed to update the “from” location of a tributary to a reservoir to display the reservoir name.